IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2630 of 1994

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G S R T C - Petitioner(s)

Versus

S A SHAIKH - Respondent(s)

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Appearance :
MR HS MUNSHAW for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 17/08/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has prayed to quash and set aside the award dated 26.07.1993 passed by the Labour Court, Bharuch, in Reference LCB No. 792 of 1990, whereby the petitioner was directed to reinstate the respondent with continuity of service and 50% back wages.

2.0 Pursuant to the award of the Labour Court, the respondent was reinstated in service and has retired on attaining the age of superannuation on 30.10.1998. Since the respondent workman has already retired on attaining

the age of superannuation, this Court is not imposing any penalty on him, which, otherwise is required. In that view of the matter, the only question which is required to be considered by this Court is with regard to grant of 50% back wages.

3.0 In the impugned award, the Labour Court has not given any cogent reasons while awarding back wages to the respondent. An order for payment of back wages cannot be passed in a mechanical manner, but a host of factors are to be taken into consideration before passing any such order. In the present case, the Labour Court has awarded 50% back wages while granting the benefit of doubt to the petitioner.

3.1 Moreover, in view of the principle laid down by the Apex Court in the case of ***Ram Ashrey Singh v. Ram Bux Singh reported in (2003) II L.L.J., pg.176*** and in the case of ***General Manager, Haryana Roadways v. Rudhan Singh reported in J.T. 2005(6) S.C., pg.137 [2005 (5) S.C.C. pg.591]***, the respondent herein cannot be said to be entitled for back wages. Hence, the impugned award qua granting the respondent 50% back wages is required to be quashed and set aside.

4.0 In the result, the petition is partly allowed. The impugned award of the Labour Court qua granting the respondent reinstatement with continuity in service is confirmed; and, the award qua granting 50% back wages is quashed and set aside. If the retirement dues of the respondent have not been paid so far, the petitioner Corporation is directed to pay the same within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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